

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 E. A. JONES, III, State Bar No. 71375  
Deputy Attorney General  
4 ELAINE GYURKO  
Senior Legal Analyst  
5 California Department of Justice  
300 So. Spring Street, Suite 1702  
6 Los Angeles, California 90013  
Telephone: (213) 897-4944  
7 Facsimile: (213) 897-9395

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. S-393

13 MAXIMO ARMENTA  
7040 San Luis Street  
14 Paramount, California 90723

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Respondent.  
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Stephanie Nunez (Complainant) is the Executive Officer of the  
21 Respiratory Care Board of California (Board). She brought this action solely in her official  
22 capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State  
23 of California, by Elaine Gyurko, Senior Legal Analyst.

24 2. Maximo Armenta (Respondent) is representing himself in this proceeding  
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about December 12, 2006, Respondent submitted an application for  
27 licensure to the Board. On or about August 16, 2007, the Board denied Respondent's  
28 application. On or about August 31, 2007, Respondent requested a hearing.

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

- 2
- 3
- 4
- 5
- 6

## 7

8  
9  
0

- 1
- 2
- 3
- 4
- 5
- 6
- 7

8  
9

## O

1  
2

3  
4  
5

## 6

7  
8

directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect (except for this paragraph), it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Maximo Armenta be issued a conditional license to practice respiratory care, which shall be on probation to the Board for a period of two (2) years on the following terms and conditions:

1. WORK SCHEDULES Respondent shall be required to submit to the probation monitor work schedules on a weekly/monthly basis for the length of probation. Respondent shall ensure the Board has a copy of his current work schedule at all times for each place of employment.

Failure to submit current work schedules on a continuous basis shall constitute a violation of probation, and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

2. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall participate in random testing, including, but not limited to, biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire

1 probation period. The frequency and location of testing will be determined by the Board.

2 At all times, Respondent shall fully cooperate with the Board or any of its  
3 representatives, and shall, when directed, appear for testing as requested, and submit to such tests  
4 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other  
5 controlled substances.

6 If Respondent is unable to provide a specimen in a reasonable amount of time  
7 from the request, while at the work site, Respondent understands that any Board representative  
8 may request from the supervisor, manager or director on duty to observe Respondent in a manner  
9 that does not interrupt or jeopardize patient care in any manner, until such time Respondent  
10 provides a specimen acceptable to the Board.

11 Failure to submit to testing or appear as requested by any Board representative for  
12 testing, as directed, shall constitute a violation of probation, and shall result in the filing of an  
13 accusation and/or a petition to revoke probation against Respondent's respiratory care  
14 practitioner license.

15 3. ABSTENTION FROM USE OF DRUGS AND ALCOHOL Respondent  
16 shall completely abstain from the possession or use of alcohol, controlled substances, dangerous  
17 drugs, any and all other mood altering drugs, substances and their associated paraphernalia,  
18 except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented  
19 medical treatment.

20 Respondent shall execute a release authorizing the release of pharmacy and  
21 prescribing records as well as physical and mental health medical records. Respondent shall also  
22 provide information of treating physicians, counselors or any other treating professionals as  
23 requested by the Board.

24 Respondent shall ensure that he is not in the presence of or in the same physical  
25 location as individuals who are using illegal substances, even if Respondent is not personally  
26 ingesting the drug(s).

27 Any positive result that registers over the established laboratory cutoff level shall  
28 constitute a violation of probation, and shall result in the filing of an accusation and/or a petition

1 to revoke probation against Respondent's respiratory care practitioner license.

2 Respondent also understands and agrees that any positive result that registers over  
3 the established laboratory cutoff level shall be reported to each of Respondent's employers.

4 4. RESTRICTION OF PRACTICE Respondent may not be employed or  
5 function as a member of a respiratory care management or supervisory staff during the entire  
6 length of probation. This includes lead functions.

7 5. OBEY ALL LAWS Respondent shall obey all laws, whether federal,  
8 state, or local. Respondent shall also obey all regulations governing the practice of respiratory  
9 care in California.

10 Respondent shall notify the Board in writing within 14 days of any incident  
11 resulting in his arrest, or charges filed against, or a citation issued against Respondent.

12 6. QUARTERLY REPORTS Respondent shall file quarterly reports of  
13 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned  
14 by the Board. Omission or falsification in any manner of any information on these reports shall  
15 constitute a violation of probation, and shall result in the filing of an accusation and/or a petition  
16 to revoke probation against Respondent's respiratory care practitioner license.

17 Quarterly report forms will be provided by the Board. Respondent is responsible  
18 for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each  
19 year of probation and the entire length of probation as follows:

20 For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
21 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
22 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For  
23 the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted  
24 between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>,  
25 reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

26 Failure to submit complete and timely reports shall constitute a violation of  
27 probation.  
28

1                   7.     PROBATION MONITORING PROGRAM Respondent shall comply  
2 with requirements of the Board appointed probation monitoring program, and shall, upon  
3 reasonable request, report to or appear to a local venue as directed.

4                   Respondent shall claim all certified mail issued by the Board, respond to all  
5 notices of reasonable requests timely, and submit Annual Reports, Identification Update reports  
6 or other reports similar in nature, as requested and directed by the Board or its representative.

7                   Respondent is encouraged to contact the Board's Probation Program at any time  
8 he has a question or concern regarding his terms and conditions of probation.

9                   Failure to appear for any scheduled meeting or examination, or cooperate with the  
10 requirements of the program, including timely submission of requested information, shall  
11 constitute a violation of probation, and will result in the filing of an accusation and/or a petition  
12 to revoke probation against Respondent's respiratory care practitioner license.

13                  8.     PROBATION MONITORING COSTS All costs incurred for probation  
14 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may  
15 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms  
16 and conditions may also cause this amount to be increased.

17                  All payments for costs are to be sent directly to the Respiratory Care Board and  
18 must be received by the date(s) specified. (Periods of tolling will not toll the probation  
19 monitoring costs incurred.)

20                  If Respondent is unable to submit costs for any month, he shall be required instead  
21 to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able  
22 to submit the costs including payment amount(s). Supporting documentation and evidence of  
23 why the Respondent is unable to make such payment(s) must accompany this submission.

24                  Respondent understands that failure to submit costs timely is a violation of  
25 probation, and submission of evidence demonstrating financial hardship does not preclude the  
26 Board from pursuing further disciplinary action. However, Respondent understands providing  
27 evidence and supporting documentation of financial hardship may delay further disciplinary  
28 action.

1 In addition to any other disciplinary action taken by the Board, an unrestricted  
2 license will not be issued at the end of the probationary period and the respiratory care  
3 practitioner license will not be renewed, until such time all probation monitoring costs have been  
4 paid.

5 The filing of bankruptcy by Respondent shall not relieve the Respondent of his  
6 responsibility to reimburse the Board for costs incurred.

7 9. EMPLOYMENT REQUIREMENT Respondent shall be employed a  
8 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his  
9 probation period.

10 Respondent may substitute successful completion of a minimum of thirty (30)  
11 additional continuing education hours, beyond that which is required for license renewal, for  
12 each 8 months of employment required. Respondent shall submit proof to the Board of  
13 successful completion of all continuing education requirements. Respondent is responsible for  
14 paying all costs associated with fulfilling this term and condition of probation.

15 10. NOTICE TO EMPLOYER Respondent shall be required to inform his  
16 employer, and each subsequent employer during the probation period, of the discipline imposed  
17 by this decision by providing his supervisor and director and all subsequent supervisors and  
18 directors with a copy of the decision and order, and the Statement of Issues in this matter prior to  
19 the beginning of or returning to employment or within 14 days from each change in a supervisor  
20 or director.

21 If Respondent is employed by or through a registry, Respondent shall make each  
22 hospital or establishment to which he is sent aware of the discipline imposed by this decision by  
23 providing his direct supervisor and administrator at each hospital or establishment with a copy of  
24 this decision, and the Statement of Issues in this matter prior to the beginning of employment.  
25 This must be done each time there is a change in supervisors or administrators.

26 The employer will then inform the Board, in writing, that he is aware of the  
27 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting  
28 the Board to obtain additional forms, if needed. All reports completed by the employer must be

submitted from the employer directly to the Board.

Respondent shall execute a release authorizing the Board or any of its representatives to review and obtain copies of all employment records and discuss and inquire of the probationary status with any of Respondent's supervisors or directors.

11. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes, but is not limited to, applying for employment, termination or resignation from employment, change in employment status, change in supervisors, administrators or directors.

Respondent shall also notify his probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes, however the Respondent must also provide his physical residence address as well.

12. SURRENDER OF LICENSE Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, he may request the voluntary surrender of his license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, within 15 calendar days, Respondent shall deliver his wallet and wall certificate to the Board or its designee and he shall no longer practice respiratory care. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a respiratory care license, the application shall be treated as a petition for reinstatement of a revoked license.

13. COST RECOVERY Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$1,594.00 and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months from the effective date of this decision. Cost recovery will not be tolled.



1 If Respondent is unable to submit costs timely, he shall be required instead to  
2 submit an explanation of why he is unable to submit these costs in part or in entirety, and the  
3 date(s) he will be able to submit the costs including payment amount(s). Supporting  
4 documentation and evidence of why the Respondent is unable to make such payment(s) must  
5 accompany this submission.

6 Respondent understands that failure to submit costs timely is a violation of  
7 probation, and submission of evidence demonstrating financial hardship does not preclude the  
8 Board from pursuing further disciplinary action. However, Respondent understands that  
9 providing evidence and supporting documentation of financial hardship may delay further  
10 disciplinary action.

11 Consideration to financial hardship will not be given should Respondent violate  
12 this term and condition, unless an unexpected AND unavoidable hardship is established from the  
13 date of this order to the date payment(s) is due.

14 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his  
15 responsibility to reimburse the Board for these costs.

16 14. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods  
17 of residency or practice outside California, whether the periods of residency or practice are  
18 temporary or permanent, will toll the probation period, but will not toll the cost recovery  
19 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
20 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the  
21 Board, in writing, within 14 days, upon his return to California and prior to the commencement  
22 of any employment where representation as a respiratory care practitioner is/was provided.

23 15. VALID LICENSE STATUS Respondent shall maintain a current, active  
24 and valid license for the length of the probation period. Failure to pay all fees and meet  
25 Continuing Education requirements prior to his license expiration date shall constitute a violation  
26 of probation.

27 16. VIOLATION OF PROBATION If Respondent violates any term of the  
28 probation in any respect, the Board, after giving Respondent notice and the opportunity to be

1 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
2 revoke probation is filed against Respondent during probation, the Board shall have continuing  
3 jurisdiction and the period of probation shall be extended until the matter is final. No petition  
4 for modification of penalty shall be considered while there is an accusation or petition to revoke  
5 probation or other penalty pending against Respondent.

6 17. COMPLETION OF PROBATION Upon successful completion of  
7 probation, Respondent's license shall be fully restored.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order, and  
10 I fully understand the terms and conditions and other matters contained therein. I understand the  
11 effect this stipulation will have on my Respiratory Care Practitioner License. I enter into this  
12 Stipulated Settlement voluntarily, knowingly and intelligently and agree to be bound by the  
13 Disciplinary Order and Decision of the Respiratory Care Board.

14 DATED: March 5, 2008.

15  
16 Original signed by: \_\_\_\_\_  
17 MAXIMO ARMENTA  
Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
20 submitted for consideration by the Respiratory Care Board of the Department of Consumer  
21 Affairs.

22 DATED: April 4, 2008.

23 EDMUND G. BROWN JR., Attorney General  
24 of the State of California

25  
26 Original signed by: \_\_\_\_\_  
27 ELAINE GYURKO  
Senior Legal Analyst

28 Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-393

MAXIMO ARMENTA  
7040 San Luis Street  
Paramount, California 90723

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 25, 2008.

It is so ORDERED June 16, 2008.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA